

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

3 DEPARTMENT R-20

HON. JERRY JOHNSON, JUDGE

4 THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

5 Plaintiff,)

6 vs.)

CASE NO. FWV17003771

7 ROBERT JASON DARROW,)

8 Defendant.)
9

COPY

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11 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING

12 BEFORE HON. JERRY JOHNSON, JUDGE

13 DEPARTMENT R-20
14 RANCHO CUCAMONGA, CALIFORNIA
THURSDAY, OCTOBER 4, 2018

15 APPEARANCES:

16 For the People:

MICHAEL RAMOS
District Attorney
BY: LISA MANN
Deputy District Attorney

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21 For the Defendant:

BY: DAVID GOLDSTEIN
Attorney at Law

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DAWN JORDAN, CSR # 12873
Certified Shorthand Reporter

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1 RANCHO CUCAMONGA, CALIFORNIA, THURSDAY, OCTOBER 4, 2018
2 DEPARTMENT R-20 HONORABLE JERRY JOHNSON, JUDGE
3 APPEARANCES:

4 The Defendant, ROBERT JASON DARROW,
5 with Counsel, DAVID GOLDSTEIN, Attorney
6 at Law; LISA MANN, Deputy District
7 Attorney representing the People of the
8 State of California.

9 (Dawn Jordan, Official Reporter, CSR No. 12873.)

10 --oOo--

11
12 THE COURT: On the record in FWV17003771 Robert
13 Jason Darrow.

14 Counsel, state your appearance.

15 MS. MANN: Good morning, Your Honor.

16 Lisa Mann for the People.

17 MR. GOLDSTEIN: Good morning, Your Honor.

18 Mr. Darrow is present, out of custody,
19 represented by David Goldstein.

20 THE COURT: This doesn't look like there has been
21 filed an amended Complaint. It's just one count of
22 289.6(h) of the Penal Code.

23 Is that the Complaint you're working with?

24 MS. MANN: Yes.

25 MR. GOLDSTEIN: Yes.

26 THE COURT: Anything you want to put on the
27 record before we proceed?

28 MS. MANN: Motion to exclude. And I would also

1 ask to designate Agent Michael Newman as my investigating
2 officer.

3 THE COURT: I need the agency.

4 MS. MANN: Sure.

5 It's the California Institute for Woman.

6 THE COURT: And his position is agent?

7 MS. MANN: Yes.

8 Maybe California Department of Corrections is
9 more correct, Internal Affairs.

10 I'm sorry.

11 THE COURT: Okay.

12 All right. He will be designated as the
13 investigating officer and allowed to remain.

14 I'll make it a mutual exclusion for defense and
15 the People, on witnesses.

16 Anything else that you need to put on the record?

17 MS. MANN: No. Thank you.

18 THE COURT: You may call your first witness.

19 MS. MANN: Thank you.

20 People call Agent Michael Newman.

21
22 MICHAEL NEWMAN,

23 (called as a witness by the People and
24 was sworn and testified as follows):

25 THE CLERK: You do solemnly state that the
26 evidence you shall give in this matter shall be the truth,
27 the whole truth, and nothing but the truth, so help you
28 God?

1 THE WITNESS: I do.

2 THE CLERK: Thank you. Please be seated.

3 THE BAILIFF: State your name and spell your
4 first and last for the record.

5 THE WITNESS: My name is Michael Newman. Last
6 name spelling is, N-e-w-m-a-n.

7 THE COURT: You may inquire.

8 MS. MANN: Thank you.

9

10 DIRECT EXAMINATION

11 BY MS. MANN:

12 Q. Good morning.

13 A. Good morning.

14 Q. Where are you currently employed?

15 A. I work for the Department of Corrections, Office
16 of Internal Affairs.

17 Q. What is your current assignment there?

18 A. I'm a special agent who conducts criminal
19 investigations.

20 Q. What is your correct title?

21 A. Special Agent.

22 Q. Special Agent Newman, are you a sworn peace
23 officer?

24 A. I am.

25 Q. How long have you been a sworn peace officer?

26 A. Approximately 22 years.

27 Q. So are you employed by CDC, for short?

28 A. Correct.

1 Q. Okay. And as part of your work as a special
2 agent with CDC, do you sometimes conduct investigations at
3 the California Institute for Woman?

4 A. I do.

5 Q. Would it be appropriate if I refer to that for
6 short as CIW?

7 A. CIW, correct.

8 Q. Okay. I would like to talk to you specifically
9 about May, 2017?

10 A. Okay.

11 Q. At some point that month did you become engaged
12 in an investigation of an incident that occurred at CIW?

13 A. Yes.

14 Q. Where is CIW located?

15 A. Officially in the city of Corona, but it's in San
16 Bernardino County.

17 Q. Okay. And what is CIW?

18 A. It is a institution that houses female offenders
19 for the in-custody of the Department of Corrections.

20 Q. It houses females, only?

21 A. Correct.

22 Q. And who is the staff at CIW?

23 A. As far as custody staff, there is correctional
24 officers assigned there who keep custody of the inmates.
25 And there is also non-sworn, non-custody staff with
26 various titles.

27 Q. Okay. Now, this incident that you investigated,
28 what is the date the incident occurred?

1 A. May 12th, 2017.

2 Q. Evening or morning?

3 A. Evening.

4 Q. So is it correct to say that CIW is a Penal
5 institution?

6 A. Yes.

7 Q. And based on what you personally learned, who was
8 involved in that incident?

9 MR. GOLDSTEIN: I object. That calls for
10 speculation as phrased.

11 THE COURT: Sustained.

12 BY MS. MANN:

13 Q. Who was involved in that incident, if you know?

14 MR. GOLDSTEIN: Objection. Same objection.

15 THE COURT: That's different phrasing. I think
16 that one is allowed.

17 Overruled.

18 THE WITNESS: Staff-wise, correctional officer,
19 Robert Darrow.

20 MS. MANN: D-a-r-r-o-w. Robert is traditional
21 spelling.

22 BY MS. MANN:

23 Q. Was there another individual involved in the
24 incident?

25 A. An inmate, yes.

26 Q. Male or female?

27 A. Female.

28 Q. Jane Doe?

1 A. Yes.

2 Q. Were there any other individuals involved in the
3 specific incident?

4 A. As far as specifically involved, or just giving
5 information?

6 Q. Involved.

7 MR. GOLDSTEIN: Objection. Vague and ambiguous.

8 THE WITNESS: Involved, no.

9 THE COURT: Hold on. I've got to make a ruling.
10 Overruled.

11 MS. MANN: Thank you.

12 THE COURT: The answer was "no." I'll allow "no"
13 in.

14 MR. GOLDSTEIN: Thank you.

15 MS. MANN: Thank you.

16 BY MS. MANN:

17 Q. Where did the incident take place?

18 A. In housing unit called "Emmons B"

19 Q. Is that E-m-m-o-n-s?

20 A. Correct.

21 Q. Do you refer to that as "Emmons B"?

22 A. Yes.

23 Q. Are there various housing units at CIW?

24 A. Yes.

25 Q. Where was inmate Jane Doe housed on May 12, 2017?

26 MR. GOLDSTEIN: Objection. Calls for speculation
27 as phrased?

28 THE COURT: If he knows, he can answer.

1 THE WITNESS: Emmons B.

2 BY MS. MANN:

3 Q. Do you know how long she had been housed at
4 Emmons B?

5 A. From what I recall, since December of 2016.

6 Q. And Robert Darrow, what was he doing at CIW?

7 MR. GOLDSTEIN: Objection. Vague as phrased.

8 THE COURT: Did you understand the question?

9 THE WITNESS: As far as what was he --

10 THE COURT: "Did you understand the question,"
11 was my question.

12 THE WITNESS: Yeah, I do not.

13 THE COURT: Sustained.

14 BY MS. MANN:

15 Q. Is Robert Darrow an employee at CIW?

16 A. Yes.

17 Q. What was his title?

18 A. Correctional Officer.

19 Q. Do you know how long he had been employed as a
20 correctional officer?

21 A. I'm not sure.

22 Q. Is that information in your report?

23 A. Yes.

24 Q. Would it refresh your memory to look at your
25 report?

26 A. It would.

27 MS. MANN: Your Honor, may he?

28 THE COURT: Yes.

1 (Whereupon, witness refers to report.)

2 THE WITNESS: According to the Department of
3 Records, he was employed with the department since
4 July 7th, 2003; however, I don't have information if he
5 was assigned only to CIW. He may have worked at other
6 institutions.

7 BY MS. MANN:

8 Q. Okay. So is he employed by the California
9 Department of Corrections?

10 A. Correct.

11 Q. So is his correct title Correctional Officer?

12 A. Yes.

13 Q. Okay. And at some point during the course of
14 your investigation, did you actually come into contact
15 with Correctional Officer Darrow?

16 A. Yes.

17 Q. Do you recognize Correctional Officer Darrow
18 sitting in the courtroom today?

19 A. Yes.

20 Q. Can you please identify where he is sitting and
21 an article of clothing he is wearing?

22 A. He is wearing -- sitting right next to -- in the
23 plaintiff [sic] seat, sitting in the -- wearing a black
24 suit with a maroon tie.

25 Q. Okay. Is he sitting at this table that I'm
26 sitting at?

27 A. He is, yes.

28 Q. Opposite end?

1 A. Correct.

2 MS. MANN: Your Honor, may the record reflect
3 that the witness identified the defendant?

4 THE COURT: Yes.

5 MS. MANN: Thank you.

6 BY MS. MANN:

7 Q. Now, if you know, what are some of the duties
8 that Correctional Officer Darrow had in May, 2017?

9 A. They, generally -- depending on what assignment
10 they're in -- but generally they keep custody of inmates;
11 ensure that they are fed; ensure they get to yard. They
12 keep housing units secure. They ensure inmates get their
13 medications.

14 Q. On May 17th, 2017, did you have an opportunity to
15 speak to Jane Doe?

16 A. Yes.

17 Q. Did you speak to Jane Doe about May 12th, 2017?

18 A. Yes.

19 Q. What did she tell you about May 12th, 2017?

20 MR. GOLDSTEIN: Judge, I would just like to note
21 an objection based upon the foundation that's been laid to
22 this individual offering hearsay.

23 I'm hoping for a continuing objection, rather
24 than interrupting.

25 THE COURT: The declarant that you're objecting
26 to, is this person referred to as Jane Doe?

27 MR. GOLDSTEIN: Correct.

28 THE COURT: All right. I'll overrule your

1 objection.

2 And continuing objection, I suppose I can do
3 that. I'm not sure when the conversation will change,
4 but -- rather than do that, I'm going to have you object.

5 MR. GOLDSTEIN: So my objection is there is not
6 sufficient foundation for this witness to offer hearsay in
7 this case based upon what has been demonstrated.

8 THE COURT: Overruled.

9 THE WITNESS: She told me that she was involved
10 in a sexual act with Correctional Officer Darrow.

11 BY MS. MANN:

12 Q. Okay. Is it fair that say that your interview
13 with her was in two parts?

14 A. Yes.

15 Q. Okay. Let's talk about that first part.

16 A. Okay.

17 Q. You spoke to her about May 12th, 2017?

18 A. Yes.

19 Q. Did you speak to her about whether she saw
20 Correctional Officer Darrow?

21 A. Yes.

22 Q. What did she tell you?

23 A. She said yes.

24 Q. Where did she see him?

25 A. She saw him working an overtime shift in her dorm
26 on May 12.

27 Q. What was the dorm? Is that Emmons B?

28 A. Emmons B, correct.

1 Q. Had he worked there before, per what she told
2 you?

3 A. Yes.

4 Q. And did you ask her in this first part of the
5 interview, whether she had any physical contact with
6 Correctional Officer Darrow?

7 A. Yes.

8 Q. What did she tell you?

9 A. She said no.

10 Q. Now, let's talk about the second part of your
11 interview with her.

12 A. Okay.

13 Q. At some point you spoke to her again?

14 A. Yes.

15 Q. Still on May 17th, 2017?

16 A. Yes.

17 Q. Okay. And did you, again, inquire about whether
18 she knew Correctional Officer Darrow?

19 A. Well, we had already established that, so I don't
20 believe I, again, asked her that.

21 Q. Okay. So how did you begin the second part of
22 the interview?

23 A. Well, she -- between the two portions of the
24 interview, she made an admission to a correctional
25 lieutenant, Joseph Spinney.

26 Q. S-p-i-n-n-e-y --

27 MR. GOLDSTEIN: Objection. Multiple level of
28 hearsay.

1 Pardon the interruption.

2 MS. MANN: I don't think it's going to be offered
3 for the truth.

4 MR. GOLDSTEIN: Motion to strike.

5 THE COURT: Unless it's -- what's it being
6 offered for, then?

7 MS. MANN: I can rephrase.

8 THE COURT: All right.

9 I'll grant it.

10 BY MS. MANN:

11 Q. So ignoring what may have happened in between,
12 let's talk about the second conversation with her.

13 A. Okay.

14 Q. How did that second conversation begin?

15 A. She -- she indicated that she was involved in a
16 sexual act with Darrow on May 12th. And she went on to
17 explain what happened.

18 Q. Did she tell you how she got to know Correctional
19 Officer Darrow?

20 A. Yes.

21 Q. What did she tell you?

22 A. She said --

23 MR. GOLDSTEIN: Objection. Relevance.

24 THE COURT: I don't see the relevance, Counsel.

25 MS. MANN: Your Honor, I just think it's
26 corroboration for...

27 THE COURT: I'll sustain it.

28 MS. MANN: Okay.

1 BY MS. MANN:

2 Q. Now, did she, at any point, describe whether
3 Correctional Officer Darrow had propositioned her in a
4 sexual way?

5 A. Yes.

6 Q. What did she describe?

7 MR. GOLDSTEIN: Objection. Irrelevant.
8 Uncharged act.

9 THE COURT: I don't see the relevance, Counsel.

10 MS. MANN: I think it is relevant.

11 THE COURT: Not to the charge.

12 MS. MANN: Okay.

13 BY MS. MANN:

14 Q. Okay. So let's talk about what she told you
15 about May 12, 2017.

16 A. Okay.

17 Q. Correctional Officer Darrow, per what she saw,
18 was working an overtime shift?

19 A. Yes.

20 Q. About what time did she see him that evening?

21 A. Throughout the evening.

22 Q. Okay. What was she doing directly before the
23 incident with Correctional Officer Darrow?

24 A. She was a dorm porter -- one of the two dorm
25 porters that he had working for her [sic] that night.

26 Q. What does that mean?

27 A. That means that they clean and mop the dorm.
28 Clean up the dorm. And they're typically the last inmates

1 to be locked up.

2 Q. So Jane Doe was working as one those dorm
3 porters?

4 A. Correct.

5 Q. She was working as a dorm porter?

6 A. Yes.

7 Q. Did she do anything else after she finished her
8 duties?

9 A. Yes.

10 Q. What did she do?

11 A. She was on the inmate phone -- using the inmate
12 phone.

13 Q. About what time was she on the phone?

14 A. Approximately 8:45 p.m.

15 Q. To when?

16 A. Until 9:00 o'clock p.m.

17 Q. And at some point did she conclude her phone
18 call?

19 A. Yes.

20 Q. And what happened per what she told you after she
21 concluded her phone call?

22 A. She said she got off the phone and walked by
23 Darrow. And Darrow directed her into a room, or mop
24 closet, where they store that type of cleaning material.

25 Q. What happened next, per what she told you?

26 A. She said that he entered in behind her. She was
27 facing away from him. He closed the door. And then he
28 bent her over, pulled her sweatpants down -- she didn't

1 have any underwear -- and then he moved his head down and
2 orally copulated her.

3 Q. Where did he orally copulate her?

4 A. Her anus and vagina areas.

5 Q. Did he do anything with his hands, per what she
6 told you?

7 A. What she said, yeah. She said that he used his
8 hands to also fondle her vaginal and an anal areas.

9 Q. Okay. Did she indicate whether or not his
10 fingers ever penetrated her vagina?

11 A. She stated they did not.

12 Q. Did she ever touch him, per what she told you?

13 A. Yes. She said she used her hand to touch his
14 groin area, and noticed that he had a partial erection.

15 Q. Did she describe how long the sexual encounter
16 lasted?

17 A. She said approximately two to three minutes.

18 Q. And at some point did you have Jane Doe identify
19 Correctional Officer Darrow in a photograph?

20 A. I did, yes.

21 Q. Did she ID him in a photograph?

22 A. Yes.

23 Q. Is that the same person that you identified here
24 in court today?

25 A. Yes, it is.

26 Q. Were you able to confirm in the course of your
27 investigation, that Correctional Officer Darrow was, in
28 fact, working in Emmons B on May 12, 2017?

1 A. Yes.

2 Q. Was he working there?

3 A. Yes.

4 Q. Now, let's go back to what's happening in the --
5 I'm sorry -- the room or supply closet?

6 A. Yes.

7 Q. Okay. She told you it lasted about two to three
8 minutes.

9 How did the interaction come to a close?

10 A. Apparently Mr. Darrow heard a noise in the
11 housing unit.

12 MR. GOLDSTEIN: I'm going to object. It calls
13 for speculation as phrased. Make a motion to strike.

14 THE COURT: Sustained.

15 I'll strike it.

16 BY MS. MANN:

17 Q. Okay. What did she tell you had happened in
18 terms of this situation coming to a close?

19 A. She said Darrow heard a noise in the housing
20 unit, and stopped and exited the closet.

21 Q. Okay. That's what she thought?

22 A. Yes.

23 Q. Okay. Were you able to determine, based on what
24 she -- well, scratch that. Let me rephrase.

25 Did she tell you whether or not she was a willing
26 participant in this sexual encounter?

27 A. She said she was.

28 MS. MANN: Okay. Thank you.

1 I have nothing further.

2 THE COURT: Cross-examination?

3 MR. GOLDSTEIN: Thank you.

4

5 CROSS-EXAMINATION

6 BY MR. GOLDSTEIN:

7 Q. I take it in preparation for your testimony, you
8 had the opportunity to review your report; is that
9 correct?

10 A. Yes.

11 Q. It's true, accurate, and complete; is that
12 correct?

13 A. Yes.

14 Q. And in terms of the interview that you did with
15 Jane Doe, Jane Doe's name is actually depicted in the
16 reports, correct?

17 A. Yes.

18 Q. Did Jane Doe sign a form indicating that she
19 didn't want her name used?

20 A. Not -- I don't recall whether she signed a form
21 or not, but she did indicate that she would like to keep
22 her name out of records and such.

23 Q. Is that reflected in the report?

24 A. I'm not aware. I don't recall.

25 Q. Okay. But what is reflected in the report is her
26 actual name, correct?

27 A. Yes.

28 Q. And in terms of the interview that you had with

1 Jane Doe, I take it that you were not alone; is that
2 correct?

3 A. That's correct.

4 Q. And she was interviewed in ISU?

5 A. Correct.

6 Q. And what does that stand for?

7 A. Investigative Services Unit.

8 Q. Is that an interview room?

9 MS. MANN: Objection. Relevance.

10 THE COURT: Sustained.

11 BY MR. GOLDSTEIN:

12 Q. Did you conduct an interview along with
13 Mr. Lopez?

14 A. Yes.

15 Q. And there was also Mr. Hider (phonetic)?

16 A. Yes.

17 Q. And was Ms. [sic] Spinney present?

18 MS. MANN: Objection. Relevance.

19 MR. GOLDSTEIN: Just the number of people that
20 are present during the interview.

21 THE COURT: You didn't give me a chance to
22 respond.

23 If they were percipient witnesses, that's the
24 question, I'll allow it.

25 I'll overrule your objection.

26 THE WITNESS: Mr. Hider was there. I don't
27 recall if Mr. Spinney was there, or not. I know he was
28 there that day. I don't know if he was specifically

1 there. I don't think he was.

2 BY MR. GOLDSTEIN:

3 Q. Agent Lopez was there as well, correct?

4 A. Yes.

5 Q. Now, initially, you took an initial statement
6 from Jane Doe, where she indicated that she did not have
7 contact with Mr. Darrow, correct?

8 A. Yes.

9 Q. And how long was that interview?

10 A. I would estimate 15 minutes or so.

11 Q. Now, during that 15-minute interview, she was
12 consistent with the fact that she had not had contact with
13 him, correct?

14 A. Yes.

15 Q. And in terms of identifying him, you gave her
16 that name and that picture of Mr. Darrow, correct, to look
17 at during the first interview?

18 A. I don't believe the picture had a name on it.

19 Q. Well, but you showed her a picture of Mr. Darrow
20 during the first interview, correct?

21 A. Yes.

22 Q. So that's why when you were asked if she
23 identified him in the second interview, you said no, he
24 had been identified because you showed her the photo of
25 Mr. Darrow, correct?

26 A. Yes.

27 Q. And she understood that you were investigating
28 Mr. Darrow, correct?

1 MS. MANN: Objection. Calls for speculation.

2 THE COURT: Sustained.

3 BY MR. GOLDSTEIN:

4 Q. And you told her that there was an allegation of
5 sexual contact, correct?

6 A. I think we had questions phrased where she
7 probably could have figured that out, but I don't know
8 that I specifically told her that that was the
9 investigation.

10 Q. So she knows the target, she knows the
11 allegation, and you told her the date as well, correct?

12 MS. MANN: Objection. Calls for speculation as
13 to what she knew.

14 BY MR. GOLDSTEIN:

15 Q. Well, you told her the date --

16 THE COURT: There is two or three questions in
17 there. You objected to which one?

18 He asked two or three questions before the
19 witness was allowed to answer.

20 MS. MANN: Well, I would also lodge an objection
21 as to compound and reiterate --

22 THE COURT: I'll sustain the compound question.

23 BY MR. GOLDSTEIN:

24 Q. During the first interview, you told her the date
25 of May 12th, correct?

26 A. Yes.

27 Q. You told her Mr. Darrow was the target?

28 MS. MANN: Objection. Misstates testimony.

1 THE COURT: That's "yes" or "no."

2 THE WITNESS: I don't know that I specifically
3 told her he was a target. I asked about any sexual
4 contact between he and her.

5 BY MR. GOLDSTEIN:

6 Q. Right. You're not asking about anyone else,
7 right?

8 A. Correct.

9 Q. And you're only showing his picture to her,
10 right?

11 A. Correct.

12 Q. So after all of that, she told you nothing
13 happened, right?

14 A. Correct.

15 Q. Now, during that interview, the first part of the
16 interview in ISU, she didn't say to you that, "I want to
17 be moved," correct?

18 A. No.

19 Q. In fact, she had been there for 20 months,
20 correct.

21 A. I'm not exactly sure how long she had been there,
22 but...

23 Q. Didn't you testify that she had been there since
24 December of '16?

25 A. Yes.

26 MS. MANN: Objection. Vague as to "there."
27 Misstates testimony.

28 THE COURT: Did you understand the question?

1 THE WITNESS: I did not understand the question.

2 THE COURT: Sustained.

3 BY MR. GOLDSTEIN:

4 Q. Okay. Did you testify that Jane Doe had been at
5 that facility since December of '16?

6 A. I believe so, yes.

7 Q. If you interviewed her in May of '17, wouldn't
8 that be about 20 months?

9 A. I don't know.

10 Q. No, that's six months.

11 A. Yeah.

12 Q. Okay. Do you reflect in your report, under her
13 interview, that she had been at CIW for 20 months?

14 A. I don't recall whether I did.

15 Q. Would it help to refresh your recollection if you
16 could look at your interview?

17 A. Sure.

18 MR. GOLDSTEIN: Your Honor, May I approach?

19 THE COURT: If he doesn't have it, yes.

20 MS. MANN: I think he has it with him.

21 MR. GOLDSTEIN: May I approach, because I circled
22 a portion for him to look at.

23 THE COURT: You can indicate that.

24 MR. GOLDSTEIN: Okay --

25 (Speaking simultaneously.)

26 THE COURT: Excuse me, Counsel.

27 Why do you want to approach?

28 MR. GOLDSTEIN: To show him the portion that is

1 circled, so he can look at it, rather than going through a
2 12-page report, and see what he wrote to refresh his
3 recollection that she told him it was 20 months.

4 MS. MANN: Perhaps Counsel can indicate the page
5 number and paragraph?

6 THE COURT: I think he can do it without
7 approaching the witness.

8 MR. GOLDSTEIN: Page 4, first paragraph under
9 "Victim Interview of Jane Doe," first line.

10 (Whereupon, witness refers to report.)

11 THE WITNESS: Okay.

12 BY MR. GOLDSTEIN:

13 Q. So does that refresh your recollection?

14 A. It does.

15 Q. Did she tell you she had been there approximately
16 20 months at CIW?

17 A. She must have, yes.

18 Q. Okay. Well, you say that in your report?

19 A. Correct.

20 Q. Does it refresh your recollection?

21 A. I mean, if that's what she said during the
22 interview, that's what I documented, if what I documented
23 was --

24 THE COURT: Excuse me. Excuse me.

25 Do you understand the question?

26 THE WITNESS: Not really, no.

27 THE COURT: Ask it again clearly and simply so he
28 can answer it properly.

1 BY MR. GOLDSTEIN:

2 Q. In looking at your report just now, did it
3 refresh your recollection that she indicated to you that
4 she had been housed at CIW for approximately 20 months?

5 A. Looking at the report, yes.

6 Q. It refreshes your recollection, correct?

7 A. Yes.

8 Q. And so during this first interview -- and she has
9 indicated that she has been there for 20 months -- she is
10 not saying, "I need to be moved," or anything like that?

11 A. No.

12 Q. And that's not unusual that inmates, based upon
13 your experience, will get in a situation they're
14 comfortable, correct?

15 A. Yes.

16 Q. They don't want to be moved, right?

17 A. Correct.

18 Q. So after the initial interview, and she indicates
19 that nothing happened, is it true she was told she was
20 going to be moved?

21 MS. MANN: Objection. Calls for hearsay.

22 THE COURT: If he knows the answer, he can
23 answer.

24 Yes or no?

25 THE WITNESS: After the initial part of the
26 interview, yes, she was told she was going to be moved.

27 BY MR. GOLDSTEIN:

28 Q. She was upset?

1 A. Yes.

2 Q. Very upset?

3 MS. MANN: Objection. Calls for speculation.
4 Argumentative. Vague.

5 THE COURT: Overruled.

6 THE WITNESS: She had indicated that she was in a
7 program she wished to finish at CIW.

8 BY MR. GOLDSTEIN:

9 Q. So after she was told that she'd been moved,
10 after she had been there for 20 months, then she started
11 giving information about the person whose photo you had
12 shown her, correct?

13 A. Correct.

14 Q. And she -- after the conclusion of the first part
15 of the interview, she was left in ISU, correct?

16 A. Yes.

17 Q. And how long did she sit there before she was
18 told she was going to be moved?

19 MS. MANN: Objection. Relevance.

20 MR. GOLDSTEIN: May I be heard?

21 THE COURT: I'll overrule the objection.

22 THE WITNESS: I'm not exactly sure. If you're
23 asking me to speculate...

24 BY MR. GOLDSTEIN:

25 Q. Best estimate?

26 A. 30 minutes.

27 Q. So the first interview is 15 minutes. Then she
28 remains there for 30 minutes. Then she is told she is

1 going to be moved, correct?

2 MS. MANN: Objection. Compound. Asked and
3 answered.

4 THE COURT: Did you understand the question?

5 THE WITNESS: Yes.

6 THE COURT: Overruled.

7 THE WITNESS: Yes, that sounds right.

8 BY MR. GOLDSTEIN:

9 Q. Now, during the second portion of the interview,
10 the actual act itself, this allegation that somebody stuck
11 their tongue in somebody. She indicated that took two
12 seconds, correct?

13 MS. MANN: Objection. Misstates testimony.

14 THE COURT: It's not the testimony, Counsel.
15 I'll stain it.

16 MR. GOLDSTEIN: It's what's in his report,
17 though. It's different than what he has indicated.

18 THE COURT: The report is not in evidence.

19 MR. GOLDSTEIN: That's why I'm asking what his
20 report says, because --

21 THE COURT: It's still not in evidence.

22 BY MR. GOLDSTEIN:

23 Q. Isn't it true that you depict in your report that
24 she indicated to you that the act of sticking their tongue
25 in somebody, that that lasted for two seconds?

26 A. That sex act, yes.

27 Q. Two seconds, correct?

28 A. That sex act, yes.

1 Q. So the entire encounter is two to three minutes,
2 but the actual act that we're talking about, sticking your
3 tongue in somebody, was two seconds, correct?

4 MS. MANN: I would object as to vague, using
5 "they."

6 THE COURT: Overruled.

7 BY MR. GOLDSTEIN:

8 Q. And did you answer? I'm sorry.

9 A. The actual sex act with his tongue was two to
10 three seconds, I believe, is what my report says.

11 Q. Okay. Would it help to refresh your
12 recollection -- it says two seconds in your report,
13 correct?

14 A. If I can review?

15 Q. Would it refresh your recollection?

16 A. It would, yes.

17 MR. GOLDSTEIN: Thank you.

18 With the Court's permission?

19 MS. MANN: Page 5 of 10.

20 THE COURT: Yes.

21 (Whereupon, witness refers to report.)

22 THE WITNESS: Yes, two seconds.

23 BY MR. GOLDSTEIN:

24 Q. Now, during the second interview, if you will,
25 how long did that second interview take?

26 A. It would be speculation on my part, but I would
27 say 30 minutes, maybe.

28 Q. Is that your best estimate?

1 A. Yes.

2 Q. And is it the same individuals present in the
3 room with her that were in the room during the first
4 interview?

5 MS. MANN: Objection. Discovery. Relevance.

6 THE COURT: Sustained.

7 BY MR. GOLDSTEIN:

8 Q. Now, during the second interview, she never
9 indicates sustaining any injury during this contact; is
10 that correct?

11 A. That's correct.

12 Q. She doesn't talk about somebody grabbing her
13 thighs, she doesn't say anything like that, correct?

14 MS. MANN: Objection. Vague as to which part of
15 the conversation.

16 THE COURT: Sustained.

17 BY MR. GOLDSTEIN:

18 Q. During the second interview.

19 Do you have the question in mind?

20 A. If you can re-ask it. I don't understand.

21 Q. During the second interview she does not indicate
22 that she has injuries on her thighs, correct?

23 A. Correct.

24 Q. She doesn't say anything like that, does she?

25 A. No.

26 Q. She doesn't describe having her thighs gripped;
27 is that correct?

28 A. That's correct.

1 Q. She didn't disclose any type of injury, true?

2 A. True.

3 Q. Now, in terms of corroboration, you interviewed
4 staff; is that correct, regarding this incident?

5 A. I interviewed a staff member, yes.

6 Q. Did a staff member indicate that they saw sexual
7 contact between Mr. Darrow and Jane Doe?

8 MS. MANN: Objection. Exceeds the scope. Vague.

9 THE COURT: Sustained.

10 BY MR. GOLDSTEIN:

11 Q. Part of Jane Doe's comments to you is that
12 supposedly Darrow hears something, some staff member, and
13 that's how the event ended; is that correct?

14 MS. MANN: Objection. Misstates testimony about
15 hearing a staff member.

16 THE COURT: The term "staff member" I don't think
17 was in that testimony.

18 I'll sustain it.

19 BY MR. GOLDSTEIN:

20 Q. Who does Jane Doe say that she thinks Darrow
21 hears that ends this event? Was it a staff member, or
22 another inmate, or she is unsure?

23 A. If I recall correctly, I believe she said a
24 supervisor, or sergeant, or somebody had come to the unit,
25 the noise that he had heard.

26 Q. Were you able to find a supervisor or a sergeant
27 who indicated that he came on to Emmons B -- as in boy --
28 on 5/12 of '17 and saw something, in particular,

1 Mr. Darrow in the closet?

2 MS. MANN: Objection. Discovery.

3 THE COURT: Sustained.

4 BY MR. GOLDSTEIN:

5 Q. Did you interview any supervisor who was on duty
6 that day?

7 MS. MANN: Same objection.

8 THE COURT: Sustained.

9 BY MR. GOLDSTEIN:

10 Q. At the conclusion of the first interview, was
11 Jane Doe told to remain at ISU?

12 MS. MANN: Objection. Relevance.

13 THE COURT: Sustained.

14 BY MR. GOLDSTEIN:

15 Q. She indicated to you -- well, did you ask
16 questions about what Jane Doe was wearing on 5/12 of '17?

17 A. Yes.

18 Q. Did she tell you sweatpants?

19 A. Yes.

20 Q. Did they make a point of telling you that she
21 washed the sweatpants?

22 A. Yes.

23 Q. Did you collect the sweatpants?

24 MS. MANN: Objection. Discovery. Relevance.

25 THE COURT: Sustained.

26 BY MR. GOLDSTEIN:

27 Q. When you interviewed Jane Doe, did you try to
28 determine if she had personal information of about

1 Mr. Darrow?

2 A. Yes.

3 Q. Did she?

4 A. No.

5 Q. The reason you looked for that is that would be
6 indicative of over familiarity, correct?

7 A. Yes.

8 MS. MANN: Objection. Relevance.

9 THE COURT: Sustained.

10 BY MR. GOLDSTEIN:

11 Q. In addition, at some point, did you search
12 Mr. Darrow's work area at Emmons B?

13 MS. MANN: Objection. Relevance. Discovery.

14 THE COURT: Sustained.

15 MR. GOLDSTEIN: Your Honor, may I just -- there
16 was no evidence to indicate his involvement. And they did
17 do a thorough search of his business area and his vehicle.
18 It's potentially exculpatory evidence, that there is no
19 evidence to link him, cards or letters or things from her.

20 THE COURT: Do you have another question,
21 Counsel?

22 BY MR. GOLDSTEIN:

23 Q. Did you search his vehicle?

24 MS. MANN: Objection. Relevance. Discovery.

25 THE COURT: Sustained.

26 BY MR. GOLDSTEIN:

27 Q. Did you search Jane Doe's property?

28 MS. MANN: Objection. Relevance. Discovery.

1 THE COURT: Sustained.

2 BY MR. GOLDSTEIN:

3 Q. Did you find any note from Mr. Darrow in Jane
4 Doe's property?

5 MS. MANN: Objection. Discovery.

6 THE COURT: Sustained.

7 BY MR. GOLDSTEIN:

8 Q. Now, you indicated that Jane Doe told you that
9 she was working on that day as an assistant porter in the
10 dorm; is that correct?

11 A. Yes.

12 Q. Would there have been another porter working with
13 her, according to her statement to you?

14 MS. MANN: Objection. Relevance. Discovery.

15 THE COURT: Sustained.

16 BY MR. GOLDSTEIN:

17 Q. Well, did she say there was somebody out with her
18 when this happened?

19 MS. MANN: Objection. Relevance. Discovery.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 BY MR. GOLDSTEIN:

23 Q. Who?

24 A. I believe it was Inmate White.

25 Q. Did you interview Inmate White?

26 MS. MANN: Objection. Discovery.

27 THE COURT: Sustained.

28 ///

1 BY MR. GOLDSTEIN:

2 Q. But the witness indicated -- Jane Doe indicated
3 White was out there, correct?

4 MS. MANN: Objection. Asked and answered.

5 MR. GOLDSTEIN: He said yes.

6 THE COURT: That's not what he said, Counsel.
7 Your question wasn't inquiring as to that. You asked a
8 different question.

9 MR. GOLDSTEIN: My offer of proof is he testified
10 that Jane Doe told him Inmate White was present and was
11 the assistant porter that evening.

12 THE COURT: Your question was, was anyone with
13 her.

14 MR. GOLDSTEIN: And he indicated it was
15 Ms. White.

16 THE COURT: Yes. And then you asked if she was
17 in the area, or something like that, which was a different
18 question.

19 MR. GOLDSTEIN: I asked if she had been
20 interviewed, since she said --

21 THE COURT: I'll sustain the objection.

22 BY MR. GOLDSTEIN:

23 Q. Is it a fair statement to say that Jane Doe is a
24 convicted felon?

25 A. Yes.

26 Q. Numerous times?

27 MS. MANN: Objection. Relevance.

28 MR. GOLDSTEIN: Goes to credibility of the

1 hearsay declarant.

2 THE COURT: Only needs one, Counsel.

3 I'll sustain it.

4 BY MR. GOLDSTEIN:

5 Q. Is it true that my client was booked for a
6 misdemeanor oral cop?

7 MS. MANN: Objection. Relevance.

8 THE COURT: Sustained.

9 BY MR. GOLDSTEIN:

10 Q. Did you tell my client during the interview that
11 you had DNA on the sweats?

12 MS. MANN: Objection. Relevance.

13 THE COURT: Vague, also.

14 I'll sustain it.

15 BY MR. GOLDSTEIN:

16 Q. The closet that we're talking about, are you
17 familiar with it?

18 A. Not particularly.

19 Q. Have you ever looked at it?

20 MS. MANN: Objection. Calls for discovery.

21 THE COURT: Overruled.

22 You can answer that one.

23 THE WITNESS: I may have. There are multiple
24 closets in that dorm -- or what could be considered
25 closets.

26 BY MR. GOLDSTEIN:

27 Q. So you're not exactly sure which closet she was
28 referring to?

1 A. Correct.

2 Q. Are all the closets on Emmons B, do they have
3 locks on the door, or are open?

4 MS. MANN: Objection. Calls for discovery.
5 Relevance.

6 THE COURT: If he knows, he can answer.

7 THE WITNESS: I don't know.

8 BY MR. GOLDSTEIN:

9 Q. You never went and looked at the rooms?

10 MS. MANN: Objection. Calls for discovery.

11 THE COURT: That does.

12 I'll sustain it.

13 MR. GOLDSTEIN: Thank you.

14 Nothing further.

15 THE COURT: Redirect?

16 MS. MANN: Yes. Just a few things.

17

18 REDIRECT EXAMINATION

19 BY MS. MANN:

20 Q. Now, Counsel asked you questions about somebody's
21 tongue somewhere else.

22 Do you recall Counsel asking you those questions?

23 MR. GOLDSTEIN: Objection. Beyond the scope.
24 Leading and suggestive.

25 THE COURT: Overruled.

26 THE WITNESS: Yes.

27 BY MS. MANN:

28 Q. Okay. So per what Jane Doe told you, the part of

1 the incident that lasted two to three seconds, was what?

2 A. Was him using his tongue on her vagina and anal
3 area.

4 Q. Okay. Now, prior to Correctional Officer
5 Darrow's tongue making contact with Jane Doe's vagina,
6 what part of his body, if any, made contact with hers?

7 A. He was using his hands to fondle her vaginal and
8 rectal areas.

9 MS. MANN: Thank you.

10 I have nothing further.

11 THE COURT: Recross?

12 MR. GOLDSTEIN: Yes.

13

14 RECROSS-EXAMINATION

15 BY MR. GOLDSTEIN:

16 Q. Isn't it true that he never told you that he put
17 his tongue in her anus?

18 A. As far as I recall, it was something to that
19 effect.

20 Q. Okay. Isn't it true that what you reflect in
21 your report is that it was oral copulation on her vagina
22 for two seconds.

23 Isn't that what's depicted in your report?

24 A. If I can review the report?

25 Q. Yes.

26 MR. GOLDSTEIN: With the Court's permission?

27 MS. MANN: 5 of 10.

28 THE WITNESS: Okay.

1 (Whereupon, witness refers to report.)

2 THE WITNESS: Okay.

3 BY MR. GOLDSTEIN:

4 Q. It doesn't say anything about he sticks his
5 tongue in her anus, does it?

6 A. No. It was his hands.

7 Q. But it doesn't say anything about the tongue in
8 the anus, correct?

9 A. Correct.

10 Q. She never told you that, true?

11 A. True.

12 MR. GOLDSTEIN: Thank you.

13 Nothing further.

14 THE COURT: Redirect?

15 MS. MANN: No.

16 Thank you.

17 THE COURT: Thank you.

18 Officer, you may step down.

19 Any additional witnesses?

20 MS. MANN: No, Your Honor.

21 THE COURT: People rest?

22 MS. MANN: Yes.

23 THE COURT: Any affirmative defense?

24 MR. GOLDSTEIN: Not at this time.

25 THE COURT: People wish to argue?

26 MS. MANN: Yes.

27 People move to have the defendant held to answer
28 on any crimes evidenced by this preliminary hearing,

1 namely Count 1 of the Complaint.

2 THE COURT: Mr. Goldstein?

3 MR. GOLDSTEIN: Your Honor, I would object.

4 As I indicated, I don't believe the evidence is
5 sufficient to establish that charge with credible hearsay.
6 I think it's a problem about the admissibility of credible
7 hearsay, because there has been no testimony that he is a
8 law enforcement officer. And I would ask that he not be
9 held to answer.


10 If the Court is going to hold him, I would ask
11 the Court to reduce it to a misdemeanor under 17(b). And
12 by way of my 17(b) request, only, I would indicate that my
13 client has no prior record of any kind; that according to
14 the booking sheet, he was booked for a misdemeanor by
15 Investigator Newman, and I would ask the Court to deem it
16 a misdemeanor.

17 THE COURT: Submitted?

18 MR. GOLDSTEIN: Yes.

19 THE COURT: Do you wish to respond at all?

20 MS. MANN: In terms of the charge and the 17(b)
21 motion, it's the nature of the act that makes it a felony.
22 A misdemeanor sexual activity with a correctional officer
23 and inmate, is not for when it involves oral copulation.
24 So I would ask that it remain a felony.

25 If the Court is inclined to grant the 17(b), then
26 I do want to be heard about the defendant's history of
27 being investigated for sexual activity with inmates. 

28 MR. GOLDSTEIN: I do believe it's wobbles. It is

1 a wobbler.

2 THE COURT: Submitted?

3 MR. GOLDSTEIN: Yes.

4 MS. MANN: Submitted.

5 THE COURT: All right.

6 Based on the testimony and the charge, itself,
7 I'll deny the request to reduce to a misdemeanor at this
8 time. There also appears to be sufficient cause to hold
9 the defendant to answer.

10 There was a great deal of questions about the
11 length of time. I don't think that's an element. The
12 fact that the activity -- the sexual activity occurred is
13 all that's required.

14 The term "activity" denotes some passage of time,
15 but it doesn't say how long it takes, or why it should be
16 any longer than two or three seconds. I think that's
17 sufficient for holding him to answer to this charge.

18 The Information [sic] on arraignment is going to
19 be in Department R-12, 8:30 a.m., on October 18th of this
20 year. The defendant is ordered to appear on that date.

21 He is on bond now. Bail to stand.

22 MR. GOLDSTEIN: Thank you.

23 MS. MANN: Thank you.

24 THE COURT: Thank you, Counsel.

25 (Proceedings concluded.)

26 --o0o--
27
28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

3 DEPARTMENT R-20

HON. JERRY JOHNSON, JUDGE

4 THE PEOPLE OF THE STATE OF)
5 CALIFORNIA,)

6 Plaintiff,)

7 vs.)

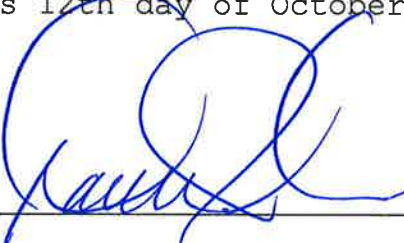
CASE NO. FWV17003771

8 ROBERT JASON DARROW,)

9 Defendant.)
10

11 I, DAWN JORDAN, Certified Shorthand Reporter of the
12 Superior Court of the State of California, for the County
13 of San Bernardino, do hereby certify that to the best of
14 my ability, the foregoing pages, 1 through 39, comprises a
15 full, true, and correct transcript of the proceedings held
16 in the above-entitled matter on Thursday, October 4, 2018.
17

18 Dated this 12th day of October, 2018.

19
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21 

, CSR No. 12873

22 Certified Shorthand Reporter
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